REMARKS

Claims 1-8 are all the claims pending in the application. By this Amendment, Applicant amends claims 1 and 8. No new matter is added. Support for the amendments is found, *e.g.,* at pages 4 and 5 and in FIGs 1 and 3 of the Specification as filed. Reconsideration and allowance of claims 1-8 are respectfully requested in view of the following remarks.

I.   Prior Art Rejections

Claims 1-6 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,751,660 to Mansingh et al. (hereinafter " Mansingh ") in view of U.S. Patent No. 7,043,633 to Fink et al. (hereinafter "Fink"). Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Mansingh and Fink in view of U.S. Patent No. 7,126,941 to Clemm et al. (hereinafter "Clemm"). Applicant respectfully traverses this rejection because the references fail to teach or suggest all of the elements as set forth and arranged in the claims.

Specifically, Mansingh in view of Fink does not disclose or suggest "wherein the module to filter protocol frames and the module to extract from the filtered protocol frames information about the network topology are elements of the network monitor independent from and not integrated into the network controllers controlling the associated network elements," as recited in claim 1. Nor does Mansingh in view of Fink disclose or suggest "wherein the steps of filtering, extracting and displaying are performed independently from the controlling of the associated network elements and the advertising of the network topology and the status by the network controllers," as recited in claim 8.

First, the Examiner contends that the network management system (NMS) 114 in

Mansingh corresponds to the network monitor as recited in claim 1. *See* page 2 of the Office

Action. Further, citing Mansingh at col. 3, lines 56-58, the Examiner contends that the NMS 114

in Mansingh is connected to non-SONET out-of-band control channels (which allegedly

correspond to the first dedicated packet-switched data network according to claim 1) whereby

the data transmitted via these out-of-band control channels may be transmitted via Ethernet. *See*

page 2 of the Office Action. Applicant respectfully disagrees with the Examiner's position.

Although Mansingh refers to an Ethernet link as a possible way to connect the NMS 114

with a network element (NE) (*see* col. 4, lines 15-17) this does not necessarily mean that the

NMS 114 is connected to the non-SONET out-of-band control channels, as alleged by the

Examiner.

However, even assuming, *arguendo*, that the NMS 114 is connected to the non-SONET

out-of-band control channels through an Ethernet network, the NMS 114 does not filter protocol

frames in the non-SONET out-of-band control channels and extracts from the filtered protocol

frames network information about the network topology, as required in claim 1. Instead, as

admitted by the Examiner, the NMS 114 receives the network topology and status information

transmitted in the dedicated packet switched data network <u>from the controllers</u>. *See* page 2 of the

Office Action.

A person of ordinary skill in the art would have recognized that the NMS 114 in

Mansingh is not capable of filtering protocol frames transferred via the non-SONET out-of-band

control channels and to extract from the filtered protocol frames network information about the

SONET because network management systems are generally <u>not</u> concerned with routing protocols (such as OSPF, for example) from which network information could be extracted. To the contrary, network management system typically communicate via Simple Network Management Protocol (SNMP) or Q3/Common management information protocol (CMIP) protocols. Thus, network management systems are generally not capable of interpreting routing protocols, such as OSPF.

Mansingh is silent about any additional capability of the NMS 114 with respect to routing protocols. Therefore, the NMS 114 needs to obtain the network topology from the NEs and not from the non-SONET out-of-band control channels, as it would be required according to claim 1.

As a consequence, the NMS 114 has to rely on the topology information of a single topology host. The NMS 114 has no own visibility of the network since it does not filter protocol frames originated from different NEs. Therefore, the NMS 114 is not able to recognize whether the topology map of the topology host from which it obtains the network information is flawed.

<u>Second</u>, the Examiner contends that "the claims do not describe whether the monitor is a separate element or is integrated into one of the controllers." *See* page 6 of the Office Action. In other words, the Examiner seems to interpret the NEs 120 as being a part of the NMS 114, whereby the NEs send and receive from other NEs link state advertisement messages (LSAs). *See* col. 4, lines 22-67. Applicant respectfully disagrees with the Examiner's interpretation of the Mansingh reference.

NMS systems in Mansingh do not have to be present in the network in order to be able to obtain the network topology. Instead, "[w]hen [the] NMS . . . is connected to the network . . . the NMS queries the NEs . . . for the state of their cross connects and/or other circuit information." *See* col. 4, lines 3-6. Therefore, a person of ordinary skill in the art would not have interpreted the NEs in Mansingh as being integrated in the NMS 114, or the NMS 114 as being integrated in an NE, so that the NMS 114 comprises capabilities for filtering protocol frames (via the NE) and to extract from the filtered protocol frames network information about the network topology of the SONET (via the NE).

However, even if one would assume for the sake of argument that the NEs 120 in Mansingh might be interpreted as being integrated in the NMS 114, Mansingh does not disclose or suggest that "the module to filter protocol frames and the module to extract from the filtered protocol frames information about the network topology <u>are elements</u> of the network monitor <u>independent from</u> and <u>not integrated into</u> the <u>network controllers</u> controlling the associated network elements," as recited in claim 1.

To the contrary, under the above interpretation of the Mansingh reference, any module for filtering of protocol frames and extracting of information about the network topology would be identical with the network elements (NE) which, according to the Examiner, correspond to the network controllers, as recited in claim 1. *See* page 2 of the Office Action. Thus, contrary to the requirements of claim 1, these alleged modules would not be independent from and rather be integrated into the NEs in Mansingh. Therefore, Mansingh does not disclose or suggest this unique feature of claim 1.

Fink does not remedy the deficiencies of Mansingh. As a result, Mansingh in view of Fink does not teach or suggest all of the elements as set forth and arranged in independent claim 1. Independent claim 8 recites analogous features as claim 1 and is patentable for analogous reasons as claim 1. Therefore, Applicant respectfully requests that the rejection of claims 1 and 8 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

Claims 2-7 depend from claim 1. Clemm does not cure the deficient disclosure of Mansingh in view of Fink. Thus, claims 2-7 are patentable at least by virtue of their dependencies.

II.   Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue

Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any

overpayments to said Deposit Account.

Respectfully submitted,

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